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Reaching Export 2020 with integrity: How can UK businesses be better supported to manage corruption risks in high-growth markets?

Appendix A

Submissions received by the Inquiry from December 2015 to February 2016.

NB: Content in the submissions reflects the time period above. The APPG does not take responsibility for the current accuracy of hyperlinks presented at the date of submission. Some formatting has changed as regards numbering of footnotes in collating all submissions. Submissions have also been anonymised as regards individual names to show the names of organisations only, unless the organisation wished to be fully anonymous or in the case of the contribution from the University of York.

Anonymous

Our submission is as follows:

Is your company, or are your clients, aware of the support on offer from UK government agencies to help businesses deal with corruption?

We are well aware of the many sources of advice and assistance from within Government to help companies on all “business ethics” matters. We have worked closely in the past with the likes of: BIS, UKTI, UKTI DSO, UK MoD, FCO, SFO, DfID, as well as the International Corruption Unit at the National Crime Agency. The UK Government tries to assist law-abiding companies to comply with anti-corruption laws, whilst seeking the ability to prosecute and disrupt the illegal activities of those who do not seek to obey the law.

What are the principal challenges and gaps in the current provision of this support for UK businesses?

We believe that more assistance is required to help UK Industry to interpret the raft of legislation and guidance that exists, such as UK Bribery Act 2010, which Government Agencies may not have the resources to enforce widely. Whilst the Ministry of Justice has published very helpful guidance on the Bribery Act 2010, there are clearly still some areas where there is some remaining uncertainty on practical issues about implementation of the Act (for instance on hospitality), and it would be extremely helpful if these could also be addressed. We strongly believe that more case law from actual prosecutions would help define the boundaries and limits for such legislation, including when is legislation enough and when would it be in the public interest to prosecute. Also, we believe that some serious consideration needs to be given by the UK Government and its agencies on the likely impact of any new legislation or standards which have been created, such as the BSI 10500 and the new ISO37001.

What policy, strategy, and/or programming models could government agencies develop to better support UK businesses to deal with the threat of corruption and bribery?

We believe that, with the UK Government proactively encouraging British companies to get more involved in exporting, and also, with the current state of the economies of most developed nations being somewhat moribund, that, as a result, these companies will, of commercial necessity, be having to start to explore potential business opportunities in more exotic and far-flung nations where there is an increasing risk of them encountering business ethics “issues”. One way of trying to address these concerns with certain nations is through the willingness of the UK Government to enter into formal overarching Government-to-Government agreements, under which UK firms can more safely operate in that market. We

believe that the Government-to-Government sharing of data on risks would be utterly invaluable. We believe that the finance sector does this quite well to reduce money laundering, but we are unsure how this applies to other sectors. However, Industry has a role, too, on transparency of sources of wealth and ultimate benefactors as well as on the due diligence and ongoing compliance applied to their agents and third party buyers conducting business in high-growth market and regions more at risk from corruption.

What good practice examples of activity or approaches in other sectors or jurisdictions could be replicated by UK government agencies?

A greater willingness by the likes of the Serious Fraud Office (SFO) to provide speakers to participate at industry gatherings, such as seminars and conferences, where questions and queries can be posed to them, would be helpful and much appreciated. With the cessation of the National Fraud Agency in 2014, there may be a need for a platform between Government and Industry to methodically discuss corruption risks and also opportunities for Industry to meet with regulators to show them the measures they are taking to combat fraud and corruption and to build trust. I understand that a number of US-based companies already do this roughly annually in the US with the Debarment Committee.

IBLF Global¹

IBLF Global is an NGO, registered as a charity in the UK. Its mission is to work with business and other stakeholders to raise business standards in key markets, focusing on anti-corruption, corporate governance and responsible business practices. Its main emphasis is on designing and facilitating projects on the ground which are locally sustainable and have measurable impact. In 2015 it delivered two projects funded by the FCO's Prosperity Fund – an Anti-Corruption Toolkit for UK government officials posted abroad, and, at the request of the G20, an Anti-Corruption Toolkit for SMEs which is in the process of being adapted for emerging and developing markets. Over the past three years, IBLF Global has been actively involved in coordinating the B20 Anti-Corruption Task Force, a business group advocating policy reform and collective action to the G20 governments.

Is your company, or are your clients, aware of the support on offer from UK government agencies to help businesses deal with corruption?

In March 2015, IBLF Global organised an event for British companies to discuss the recently published UK Anti-Corruption Plan with its co-authors – senior representatives of the Cabinet, Home, Foreign Offices and DFID. During the discussion, which touched upon the support for British companies operating abroad, it became apparent that some of the companies felt strongly that there were some gaps in the anti-corruption service provided by the UK Government.

They all seemed to be aware of the main points of contact for trade support (British Embassies and High Commissions, UKTI, and the Overseas Business Network of the British Chambers of Commerce), but there was little enthusiasm about using any of these resources for support in the area of anti-corruption. When one of the companies had approached the British Embassy about the risk of local corruption, the advice received had not been helpful.

We have not conducted a systematic survey of companies' opinions. But it would seem that big companies with many years of experience in high-growth markets do not really need this kind of support since they are aware of the local risks and have adequate compliance and risk management programmes in place.

As for SMEs and new exporters, they often lack the experience, sophisticated compliance systems of the larger companies, and resource to conduct due diligence in difficult markets. A government survey last year of SMEs' knowledge of the Bribery Act and its impact on exports

¹ <http://www.iblfglobal.org/>

indicated that there was room for more government support to help SMEs manage corruption risk effectively in high-risk markets.

These markets present some of the best opportunities for growth, but they also present the highest risk of corruption. In order to strengthen its support to British business abroad, the UK government could consider finding a more effective and efficient way to provide advice and support to British companies on corruption risk identification and management. Such a new approach on risk management for British companies abroad would go hand-in-hand with the UK's renewed efforts to enhance British companies' exports abroad as published on 21st January 2016.

What are the principal challenges and gaps in the current provision of this support for UK businesses?

Corruption is a global issue but has local manifestations. However well prepared back in the UK, companies entering a new market are confronted with a bewildering array of local laws, written and unwritten, local business traditions and cultures. Steering the way through this can only be provided by people with local knowledge.

There is no doubt that the three points of support to British companies – the commercial and economic (“Prosperity”) counsellors posted in the UK Embassies and High Commissions, the UKTI representatives and the British Chambers in many countries, - provide an excellent starting point for support for British exporters and investors.

Here are a few points for consideration:

- Neither one of the three points of support will necessarily have expertise in corruption risk management. Their primary task has always been “trade or export promotion”. Anti-corruption refers to a specific body of law and practice which requires special training and knowledge, and ability to find the right answer quickly.
- For export promotion staff, the anti-corruption theme is not a “natural fit”. Anti-corruption may be perceived as a barrier to trade, red tape, regulation for the sake of regulation, not as a way of balancing risk and opportunities or creating a level-playing field. It's a difficult sell for the staff and for the companies.
- Whilst in all three organisations there may be local staff members who have had some training in anti-corruption issues, it's not clear that they are sufficiently trained in providing advice of the kind required by British companies, especially SMEs. For example, British diplomats may be well versed in UK law, but they are unlikely to be

acquainted with the local corruption risks faced by business, even if they have lived in the country for many years.

- On the whole, Embassy and UKTI staff, and to a lesser extent, British Chambers staff, may have limited experience of working in business, and especially in entrepreneurial small business. Furthermore, the world of the civil servant and of the trade advisor is somewhat removed from the cut and thrust of business in high-growth markets. The language and experience are simply quite different.
- There are some potential conflicts of interest which make it difficult for government staff to offer advice. For example, if a company comes to the Economic Counsellor in an Embassy with a story of how he was forced to pay a bribe, the letter of the law would suggest that the Embassy official should immediately report the incident to the UK authorities. This may be one of the reasons why companies are reluctant to ask for UK government support.

What policy, strategy, and/or programming models could government agencies develop to better support UK businesses to deal with the threat of corruption and bribery?

In summary, there are three kinds of advice that need to be provided 1) before bribery has occurred – this is awareness raising, education, training; 2) while solicitation is occurring, when it is still possible to prevent it from happening – this is crisis management advice; 3) after a bribe has been paid, when it is too late to prevent – this is support for the company that has been involved, and work with other companies in the industry to prevent repetition. Each of these will require a nuanced approach.

Here are some approaches that could help improve all aspects of the service:

Identification of a UK-Government appointed “Anti-Corruption Expert” (ACE) in each country:

It just requires one properly trained expert in each country to promote the anti-corruption agenda amongst colleagues within the Embassy and in the British Chamber. The expert does not have to be a government employee – he or she could also be in the local British Chamber. A variation on this idea is to use local resource from a third party provider. One suggestion is to create a network of Anti-Corruption Action Centres in the major export markets. These locally run, independent groups would be specialised on promoting anti-corruption and Collective Action amongst local business and government. But they would also have the in-house expertise and local knowledge to provide most of the advisory service required by British companies.

Creating an ACE Network:

Our recommendation is to link the ACEs together into an ACE Network. In addition to Embassy,

UKTI and OBN officials, it could include the many people based in Whitehall with expertise and knowledge of anti-corruption.

Our suggestion is to structure the ACE Network around the existing on-line Toolkit for Government officials posted abroad. This resource was created by IBLF Global in 2015 at the request of the FCO and DFID as part of the UK Anti-Corruption Plan. It provides quick and easy links for non-specialists to legislation, enforcement, and business approaches to compliance.

Currently it is accessible only through the FCO's intranet site. This resource could be made accessible to the proposed ACE Network and could be made into the key vehicle for dissemination of training, and exchange of new ideas, experience and expertise.

For the ACE Network to work properly, it requires proper funding and resource: an administrator with expertise in anti-corruption who has the overview of the entire Network and what is going on in each country.

The Network would be an active instrument for supporting British exporters and investors abroad. It would in time also be capable of bringing together officials from all parts of the government, whether at home or abroad. The Network thus would become a powerful resource with which to implement the government's Anti-Corruption Plan.

In short, if properly resourced and organised, the ACE Network would enhance knowledge and learning about anti-corruption and about success factors for anti-corruption initiatives throughout government. It will significantly improve the Government's ability to promote the fight against corruption abroad, protect its citizens and companies, and create new business opportunities for exporters.

What good practice examples of activity or approaches in other sectors or jurisdictions could be replicated by UK government agencies?

We believe there are great opportunities for improving effectiveness and learning if the UK government's anti-corruption support for exporters could be benchmarked with that of other governments, particularly those of the G7.

One result of such an exercise would be to see where the gaps are in the services provided by the different governments. There may even be an opportunity for the governments to pool their resources, and jointly strengthen the service provided. There would be significant cost savings and efficiency gains in this approach.

For example, in each high-growth market, the G7 country embassies could work together to

identify and train the ACE that could provide this service to all of them. There could be regular exchanges on how to improve the anti-corruption advisory service to companies. And the on-line Toolkit could be used as a vehicle for all participating countries' ACEs.

British Standards Institute²

Comment: Following the enactment of the Bribery Act 2010, BSI published BS10500 an anti-bribery management system standard to support organisations develop, implement and manage 'adequate procedures' for bribery risk control. An audit and certification service has been offered for this product for the last 2 years and has attracted modest take up in UK. www.bsigroup.com/en-GB/BS-10500-Anti-Bribery/case-studies/.

Interest in anticorruption generally has prompted the development of other standards: BS10501 guidance for procurement fraud controls, PAS7000 supply chain risk management - supplier prequalification, ISO19600 compliance management systems -guidelines and ISO37001 anti bribery management system standard requirements - currently due for publication in Q3

2016. www.iso.org/iso/home/news_index/news_archive/news.htm?refid=Ref1967.

Below are summary answers to the questions posed:

1 During BSI audit preparation discussions with clients and potential clients, reference to government support is mentioned and the gov website. A significant initiative was delivered between BSI the City of London Police, the UK FCO prosperity fund, The British Embassy - Seoul and a select number of South Korean business leaders, academics in June 2015 to promote BS10500 and adequate controls. <http://academy.cityoflondon.police.uk> and subsequent conference: www.gov.uk/government/world-location-news/international-conference-on-anti-bribery-management-system-to-be-held-in-seoul-on-15-september.

2 Challenges are recognition by organisations, particularly SMEs of the requirements of the UK law. Gaps are affordable support to organisations to (1) understand the requirements and introduce practical controls like BS10500/ISO37001, (2) have access to specialist advice for risk assessment, mitigation and due diligence services and (3) have training to maintain sustainable behavioural and cultural norms in business at all management and executive levels.

3 Develop, support and promote the three points above (1) business process controls, (2) compliance management support services and (3) personal behaviours in UK and overseas.

4 Good practice initiative that may be useful to consider were the practical support on the Netregs website for application of environmental controls (2005-2010) and now, to a lesser extent, the Environmental Agency website (to date).

² <http://www.bsigroup.com/en-GB/>

Interchange Solutions Limited³

Comment: Interchange Solutions is a focused, business oriented integrity risk consultancy. Since 2006 we have worked with customers of all sizes seeking to put more effective governance in place, especially the prevention of bribery. We work with our customers UK and foreign to design and build effective business processes to increase their market risk assessment capability and decision making, helping them increase their exporting confidence so that they are better equipped to address market opportunities in higher risk of corruption markets.

At their invitation, Interchange gave written evidence to the Joint Parliamentary Committee on the Bribery Bill relating to “adequate procedures” most of which has manifested itself in the Ministry of Justice Guidance to the Bribery Act 2010. We are founding members of the ADS (aerospace defence and security) Business Ethics Network and compile the ADS Business Ethics Toolkit; a practical guide aimed at SMEs and now in its third edition. Interchange actively participates in the UK development committees for both the BS 10500 and the ISO 37001 anti bribery management system standards.

How we see the export challenge.

Most larger companies have established international networks, brand reach, local operations and have the anti-bribery compliance resources to export effectively whilst mitigating corruption risk. They work closely with the financial and professional services communities and understand the constraints of laws and regulations, at home and abroad.

Our work with smaller companies generally reveals a different picture: -

- It seems that fewer SMEs, when compared with larger companies, have the level of international export skills, political savviness and risk assessment processes that help them navigate potential corruption or enable to effectively enter new markets, particularly those countries outside the EU and North America.
- SME exporters that over time successfully export to “safer markets” such as the EU and USA have shaped their marketing, products, sales approach and risk appetite around these mature markets. They are therefore less likely to have the skills to venture into the riskier yet potentially more lucrative markets.
- A recent Parliamentary briefing paper on UK-EU relations said “The EU, taken as a whole, is the UK’s major trading partner, accounting for 45% of exports and 53% of imports of goods and services in 2014. The share of UK trade accounted for by the EU is lower than a decade

³ <http://interchange-solutions.co.uk/>

ago.” For some therefore, the EU is a declining market for UK exports due to a number of factors including but not limited to exchange rates, the weak state of some EU country economies etc. This forces exporters into higher risk markets where they have weaker capabilities and less confidence to exploit these markets.

- Given less capable resources in some SMEs and a mind-set that “south of Dover” (e.g. EMEA, ASEAN, CIS, BRICS and South America) markets are too risky, unfamiliar or a cultural/language bridge too far, then the appetite to fill the gap created by declining EU exports will lessen.
- The MOJ and BIS July 2015 report on the Impact of the Bribery Act on SMEs stated “The majority of SMEs aware of the Bribery Act (89%) felt that the Act had had no impact at all on their ability or plans to export. Furthermore, when prompted as to whether they had any other concerns or problems related to the Bribery Act, nine in ten (90%) reported they had no specific concerns or problems.”
- Since the Bribery Act came into force, UKTI’s advice on anti-corruption is general and directs SMEs to seek the advice from websites, Anti-Corruption Business Portal etc. However, in a busy SME there is little appetite to research anti-bribery and some seek advice from professional firms of which many are local or regional and may have very little real world export/market exposure or experience. Their advice naturally hinges towards compliance with the law(s) and light on real business context– thereby heightening SME risk aversion.

Many SMEs therefore have little appetite or resource to properly address anti-bribery other than being aware of the Act and we see them having three broad options:

- Take risk – “it’s the local culture and I am unlikely to get caught anyway”
- Risk avoidance – “have no time to do this”
- Risk balanced – “approach it as any other business challenge weighing up the pros and cons”

In summary, given the continuing flatness of the easier and established markets, especially the EU, notwithstanding the uncertainty of BREXIT, we perceive a lower base of selling skills and risk management knowledge than those needed to export into higher risk markets. Given the likely decline in UK SME exports, the Export 2020 target is therefore at risk.

Recommendations

1. Improving export sales skills

Sales persons, in whatever sector in the UK, are often perceived to be secondary to other functions yet they are key to successful exporting. The sales function is often marred by the

“car and double glazing salesmen’s” image. Added to this, the salesman in the smaller SMEs is often the MD who has other areas to manage. Improving the sales effectiveness function in SMEs is absolutely crucial to provide much needed root support to SME export effectiveness.

2. Improving the MOJ Guidance to the Bribery Act

The MOJ Guidance to the Bribery Act is not easily interpreted into practical business policies and processes by those without anti-bribery experience. Many will focus on Gifts and Hospitality e.g. “our company will not allow me to buy you a cup of coffee”. Notwithstanding these perceptions, buried within the Guidance are some beneficial processes for exporters, especially in risk assessment and due diligence which are not taken on board.

More clarity is needed on the Guidance for business, which is neither tick box nor prescriptive but includes examples of business processes, tools and templates that could be adapted by SMEs.

UKTI or its successors, can be more supportive to SMEs by taking a more pro-active and open approach to the potential of corruption in exporting by helping SMEs better understand the Guidance and putting it into context for exporters. This will especially help SMEs to better identify, qualify and develop export opportunities.

3. International Standards

International standards are recognised worldwide as benchmarks of competence. Such as the ISO 9001 management standard, global standards have enormous traction and recognition.

The BS10500-2011 anti-bribery management system (ABMS) was published in 2011 to meet the increasing need, stemming from the UK Bribery Act 2010, for organisations, large and small to implement and demonstrate an effective anti-bribery system- ABMS (“adequate procedures”). This will be succeeded by ISO 37001 in late 2016.

These standards are business oriented and have the added benefit of embedding or strengthening the commercial procedures which help any company better prevent corruption risk and more effectively conduct its business; especially in higher risk of corruption markets. Overseas sales agents and distributors are an essential component of exporting. These standards provide a SME with the essential guidance on best practices for safely managing these third parties, often the purveyors of a bribe.

Last, standards provide competitive advantages to a company by providing evidence of its business ethics and its determination not to pay bribes. Over time, as more countries are determined to clamp down on bribery, ABMS certification may become mandatory in some international state/aid procurement processes or for banks in their trade financing support for a SME.

Conclusion

Corruption creates an unfair advantage for those willing to bribe. Corruption exacerbates instability in fragile and post conflict states. Interchange concludes that supporting “back to basics” sales training, making the Bribery Act Guidance easier to understand and implement and the introduction of internationally recognised anti-bribery standards, will all better equip exporters to exploit new markets, especially at a time when British exports need to be stimulated not restrained.

PricewaterhouseCoopers LLP⁴

Dear Sirs

Inquiry into support for UK business to manage corruption risks in high-growth markets

This letter, taken together with the accompanying appendix, sets out the response of PricewaterhouseCoopers LLP ('PwC' or 'we') to the Inquiry "Reaching Export 2020 with integrity: How can UK businesses be better supported to manage corruption risks in high-growth markets?" by the All-Party Parliamentary Group on Anti-Corruption ('APPG').

The Inquiry refers to the UK Government's plan for reaching £1 trillion of exports by 2020, which includes targeting of opportunities in high-growth markets (defined as China, India, Brazil, Central Europe, Africa and the Pacific Alliance countries of Mexico, Peru, Colombia and Chile). The Inquiry raises four specific questions about Government support for managing corruption risks in high-growth markets. PwC's detailed response is set out in the appendix to this letter, adopting the question structure used in the Inquiry.

In preparation for our submission we have undertaken a limited review of publicly available Government advice and publicity on tackling overseas corruption risks. As advisors to companies across a wide range of sectors, we have a broad perspective on international corruption issues, including the type of support available from Government, and we also benefit from the insights of PwC Partners and staff with a previous career in Government. Our understanding of what Government support is available to UK exporters therefore may not be representative of the general level of awareness among business as a whole.

PwC considers that the Inquiry addresses an important but often overlooked aspect of the fight against corruption. International initiatives have rightly emphasised the advancement of major anti-corruption goals such as transparency of beneficial ownership; however, many UK exporters have yet to feel the benefits of this work and continue to struggle with local market issues. By increasing UK business awareness of the various tools and support available, the Government can help encourage a more confident and pro-active approach towards core anti-bribery principles, such as risk assessment, due diligence and ongoing monitoring.

In summary, we consider that ethical UK businesses seeking Government support to manage overseas corruption risks face three main challenges:

- Generally available anti-corruption support is not consistently publicised across Government channels. This includes variation in how corruption risks are identified and described by Government guidance, such that UK exporters may receive different advice on similar issues in different growth markets;
- Additional forms of anti-corruption support are often available in certain Overseas Posts but are not clearly publicised. This means that UK exporters may be unable to

⁴ www.pwc.co.uk

locate Government support in urgent situations such as discriminatory treatment by overseas procurement agencies, ministries and local authorities.

- Country-specific anti-corruption work includes a number of good practice examples but varies across growth markets without a clear strategic rationale. This includes variation in how corruption risks for business are addressed by Prosperity Fund strategies, such that the Government may be missing opportunities to spread good practice and prioritise barriers for UK exporters.

Aside from the practical kind of support referred to above, the single most important element that UK businesses will look to Government to provide is the deployment of diplomatic and political influence with foreign governments to seek to reduce the incidence of bribe solicitation by local officials overseas.

Yours faithfully,

Partner

PricewaterhouseCoopers LLP

PricewaterhouseCoopers LLP

Appendix — Response to Specific Questions

1. Is your company, or are your clients, aware of the support on offer from UK government agencies to help businesses deal with corruption?

In our submission we focus on Government support for UK exporters in specific markets, as an area with scope to improve in terms of consistency of approach and strategic design. We are also aware of the high-profile programmatic Government anti-corruption work to promote positive conditions for UK export growth globally through the G20 and other international fora.

We are conscious that Government support for UK exporters in tackling corruption has gone through a series of changes over the past six years. Support for UK exporters was overhauled as part of the implementation of the UK Bribery Act, primarily through a programme of awareness raising for the Ministry of Justice (MoJ) guidance on the legislation and the statutory ‘adequate procedures’ defence. Strengthened in-country advice through UK Overseas Posts was also part of the 2010 UK Foreign Bribery Strategy⁵, but this was reviewed by Government following the May 2010 General Election.

Current support on offer to help businesses manage the risk of overseas corruption as described in the 2014 UK Anti-Corruption Plan is focused on country-specific projects, general anti-corruption guidance and mainstream trade promotion work⁶, which we summarise below. We understand that this Plan will be updated during early 2016 and may include new commitments of support for exporters. While it appears that some initial consultations with business representatives have taken place, we are not aware of any strategic evidence gathering process to inform Government on the key anti-corruption challenges facing UK exporters in growth markets.

- Country-specific projects

Country-specific projects include Department for International Development (DFID) programmes to support developing countries and wider Foreign and Commonwealth Office (FCO) funding of various overseas projects focusing on corruption and transparency. DFID also publishes country-specific anti-corruption strategies for all of the 28 main partner countries that it works in.⁷

⁵ CM 7791, January 2010, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/238485/7791.pdf

⁶ For example, paragraphs 7.2, 7.5, 7.8, 7.12, 7.13, 7.21 and 7.24

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/388894/UKantiCorruptionPlan.pdf

⁷ <https://www.gov.uk/government/collections/anti-corruption-strategies-by-country>

The FCO anti-corruption projects are funded under the second Prosperity Fund objective to support work towards a transparent and strong rules-based international economic system.⁸ Examples cited in the Government's Anti-Corruption Action Plan include country-specific work to support reform in public procurement systems and to work with local business to raise awareness of private sector bribery risks and controls. While tackling corruption is referenced as a priority objective in many of the Prosperity Fund strategies for individual countries, it is unclear how far project funding is linked to country-specific anti-corruption concerns of UK exporters. For example, guidance for the Brazil 2016 Prosperity Fund bidding round addresses anti-corruption in terms of improvement of the judicial management system but does not reference high-profile anti-corruption issues such as public procurement or the administration of business licensing. We are aware that in some regions the Prosperity Fund programme addresses corruption on a thematic basis⁹ but there does not seem to be a standard regional or global overview of anti-corruption projects. It is also unclear how far anticorruption project design and approval is informed through a consistent methodology of identifying challenges for UK exporters, such as recognised World Bank or Transparency International surveys¹⁰, or through in-country evidence gathering with UK exporters and business bodies.

- Anti-corruption Guidance

Specific anti-corruption guidance for UK exporters includes the UK Government co-sponsoring the Business Anti-Corruption Portal¹¹ and providing both general and country-specific advice via the Overseas Business Risk website.¹²

The Business Anti-Corruption Portal provides a useful starting point for the identification and assessment of overseas corruption risks, providing a relatively detailed profile of local corruption issues for over 100 developing and growth economies, broken down by industry sectors and key Government interactions. Each country profile also provides a summary of relevant local legislation, civil society initiatives and contacts in local Embassies and key local ministries.

Overseas Business Risk reports on selected markets include a specific section on Bribery; however, the information provided in these public reports is generally rather high-level and generic, typically comprising a summary of local anti-corruption legislation and a link to the country's ranking in the Transparency International's Corruption Perception Index (CPI).

Commercial Officers in UK Overseas Posts receive pre-posting training on the UK Bribery Act in order to help them advise UK exporters and supplement the online country guidance. We understand that Commercial Officers typically signpost UK exporters to free general guidance

⁸ <https://www.gov.uk/guidance/prosperity-fund-programme>

⁹ For example, <http://blogs.fco.gov.uk/benjaminchew/2014/12/09/anticorruptionday/>, <https://www.gov.uk/government/world-location-news/regional-prosperity-fund-latin-america-call-for-proposals-20152016>

¹⁰ For example, <http://www.transparency.org/cpi2015>, <http://www.enterprisesurveys.org/>

¹¹ www.businessanti-corruption.com

¹² <https://www.gov.uk/government/collections/overseas-business-risk>

to anti-bribery policies and procedures, including good practice guides for anticipating and resisting bribe solicitation.¹³ It is unclear whether the Commercial Officer's role includes signposting UK exporters to country specific anti-corruption support and resources, such as local ombudsmen and audit campaigns and industry collective action initiatives.

- Mainstream trade promotion services

From a review of mainstream trade promotion services it appears that corruption risks are sometimes referenced, but with uneven acknowledgement of the issue for business. There also seems to be scope to improve the consistency of signposting to the dedicated anti-corruption guidance and support discussed earlier.

UK Trade and Investment (UKTI) refer to overseas corruption in their general exporting country guides for all target markets, though there is wide variation in the level of detail provided that does not seem related to the country's CPI rating or equivalent corruption risk indicator. For example, some country guides do not mention corruption or only refer to it indirectly, such as in terms of complex bureaucracy and unpredictable regulation.

We are aware that UKTI provide general coaching and support for new exporters, including on identification of bona fide overseas law firms and accountancy firms. This support does not seem to include subsidized background checks on these service providers or other business partners, which is offered to US exporters through the US Department of Commerce (see our response to question 4, below). It is unclear whether new exporters are provided with coaching on managing the corruption risks associated with overseas sales agents or other intermediaries.

We are aware from recent presentations at fee-paying conferences that the Foreign and Commonwealth Office (FCO) lobbies on behalf of British companies and uses its knowledge of the local political, economic and security situation in overseas markets to help UK business to pursue new opportunities, manage risk and build relationships with the right decision makers. In some of our anti-corruption advisory engagements for clients, we took the opportunity to introduce or signpost the client to FCO advice on specific markets as the client was previously unaware of these services.

2. What are the principal challenges and gaps in the current provision of this support for UK businesses?

Growth markets are widely acknowledged as key sources for future growth, with the main drivers of economic opportunity including large and increasingly prosperous populations, rich natural resources and rising investments in infrastructure. However, growth markets often have strong governments but weak governance, creating the conditions for corruption risk and

¹³ For example, <http://www.iccwbo.org/products-and-services/fighting-commercial-crime/resist/>, <https://www.dlapiper.com/-/media/Files/Insights/Publications/2014/09/Countering-Small-Bribes.ashx>.

the business demand for experienced local guides. We summarise the principal challenges and gaps in Government support below.

- Principal challenges

Growth markets are diverse, with further regional variation within country, but certain generalisations can be made about common corruption challenges faced by UK exporters. Many growth market business sectors are undergoing a transformational period in corporate governance and anti-corruption compliance, partly driven by growing familiarity with international business and by the convergence of local accounting and auditing regimes with, for example, International Financial Reporting Standards. However, local market practices often lag behind changes in local legislation and flagship initiatives, creating a mismatch between form and substance that poses risks to unwary foreign exporters and investors.

In practice, these risks materialise in terms of UK exporters facing more political and informal business cultures with immature public administration systems. Corruption risks extend beyond bribe solicitation to include veiled coercion and clientelism, such as where querying the requirement to partner with a specific local company leads to the cancellation of public contracts on spurious grounds. In many growth market political economies it is not just a matter of following the rules, but following the right rules in the right way. For example, different ministries may be subject to differing political influences, giving plenty of scope for UK exporters inadvertently to offend powerful interests. Although these risks can also be found within developed markets they are in our experience more frequently encountered in growth markets.

Corruption risks from business culture can include extensive use of corporate gifts and hospitality, higher reliance on personal connections and informal agents, family businesses with dynastic management structures, and closer political links and interchange between Government and business. Many growth market companies still do not have clear anti-corruption policies and procedures in place, or where a framework is in place it can be undermined by the dominant business culture through inconsistent communication, unrealistic training and limited or 'tick-box' due diligence.

Corruption risks from public administration in growth markets can include ambiguous legal regulations, unclear or overlapping responsibilities, manual and duplicative processes and a lack of published fees or timelines. These conditions provide opportunities for corrupt officials to abuse their discretion for personal gain and for use in retaliation against those who resist or seek to expose official corruption.

- Gaps in Government support

While there are examples of good practice, current Government support varies across growth markets without a clear strategic rationale, such that UK exporters considering opportunities in different markets with similarly challenging corruption risks may receive inconsistent advice. In part this may reflect resourcing constraints during a period of increased demand for wider

economic and commercial diplomacy, but we consider that in the currently ad hoc situation the Government is missing an opportunity to spread good practice consistently and make more efficient use of central expertise.

As noted in relation to current Government guidance in our response to question 1, the country-specific guidance provided by the Overseas Business Risk service and mainstream trade promotion services are generally high-level and generic and sometimes appear to be inadequate to the corruption risks in the market described. In addition there are inconsistent references to the wider range of Government anti-corruption support and other sources of advice. We consider that this leaves a gap for UK exporters seeking to identify and obtain practical advice on local and sector-specific corruption risks, for example legal or contractual requirements to select from a limited pool of local suppliers and labour providers.

As noted in relation to country-specific projects in our response to question 1, there are a number of anti-corruption projects addressing business challenges in growth markets but there does not seem to be a global overview of this work, nor do there appear to be growth country anti-corruption strategies to help UK exporters identify this support. In part this may reflect the bidding processes for Prosperity fund project support, but we consider that this leaves a gap for UK exporters seeking practical assistance on local corruption concerns, such as where interaction with local customs officials are characterised by petty extortion or an expectation that companies will reimburse official's routine working expenses.

3. What policy, strategy, and/or programming models could government agencies develop to better support UK businesses to deal with the threat of corruption and bribery?

We understand that DFID will shortly update its anti-corruption country strategies to reflect the experience of the last three years of engaging with the identified challenges and changing facts on the ground. We consider that a similarly programmatic approach to local corruption issues could help FCO make best use of its resources and structure its dialogue with business, including through a process of evidence gathering to inform the targeting and evaluation of Prosperity Fund projects.

We support a range of companies in planning their market entry strategy for growth markets and understand the value they place on having a local guide and partner, to provide not just general advice but insight as to the reality on the ground. We are aware of some cases of good practice where Overseas Posts have actively sought opportunities to support local business associations¹⁴ and collective action initiatives against corruption¹⁵ and to signpost UK exporters to like-minded local companies. Examples include Ambassadors and High Commissioners using their good offices to convene business roundtables to identify pitfalls and trends in local corruption issues and gather evidence-based representations to local ministries. These approaches may not be proportionate for all markets but we consider that all Overseas Posts

¹⁴ <https://www.gov.uk/government/world-location-news/enhancing-business-engagement-in-promoting-integrity-and-tackling-corruption-in-vietnam>

¹⁵ <https://www.gov.uk/government/world-location-news/british-ambassador-to-thailands-speech-on-cost>

in growth markets would benefit from a structured approach to knowledge sharing with business.

Business bodies such as the International Chambers of Commerce and the OECD's Business and Industry Advisory Council have been calling for additional Government support against bribe solicitation since the start of concerted international action against corporate bribery, and before the dramatic increase in enforcement of national anti-corruption laws.¹⁶ We understand that Overseas Posts are not able to obtain special treatment because of British nationality or interfere in local judicial procedures, but that officers may be able to take up justified complaints of discriminatory treatment, bribe solicitation or extortion with procurement agencies, ministries and local authorities.¹⁷ We are aware of some historical cases where UK diplomats have coordinated with other embassies to make joint representations and increase the impact of their lobbying, as well as international initiatives to develop a model reporting structure to bring bribe solicitation to the attention of independent oversight bodies.¹⁸

We are aware of some cases of good practice where Overseas Posts have made appropriate referrals to UK law enforcement bodies to relay business concerns of extortion and bribe solicitation, and made local ministries aware in general of the UK Government's efforts to identify and seize the UK-based assets of corrupt foreign officials. We are also aware of individual cases where the UK Government has made use of international anti-corruption institutions such as the OECD Working Group on Bribery to ask other governments to address allegations of bribery by their own companies. These country-specific efforts complement G20 commitments to deny entry and safe haven to corrupt officials.¹⁹

4. What good practice examples of activity or approaches in other sectors or jurisdictions could be replicated by UK government agencies?

As noted above in our response to questions 1 and 2, DFID has published anticorruption country strategies for each of the countries it works in.

The Business Anti-Corruption Portal noted above in our response to question 1 is jointly sponsored by the European Commission and the governments of the UK, Sweden, Norway, Germany and Austria.

The US Department of Commerce is referenced in US Government guidance on the Foreign Corrupt Practices Act²⁰ as a source of practical anti-corruption advice for US exporters. In addition to extensive awareness raising and signposting to anticorruption guidance, the US Department of Commerce provides assistance in conducting due diligence when choosing

¹⁶ <http://biac.org/wp-content/uploads/2015/11/SolicitationProgramme.pdf>

¹⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/317474/FC_Brits_Abraod_2014.pdf

¹⁸ <http://www.collective-action.com/publications/671>

¹⁹ <http://www.mofa.go.jp/files/000059868.pdf>

²⁰ Page 14 and 15, <http://www.justice.gov/iso/opa/resources/29520121114101438198031.pdf>

business partners or agents overseas, and, in countries without a Dun & Bradstreet or equivalent due diligence service, offers a subsidised International Company Profile²¹ service available to provide an opinion on the viability and reliability of the potential partner or agent. US companies can also submit an online form to the US Department of Commerce to report allegations of overseas bribery by foreign competitors²²

The French Central Service for the Prevention of Corruption (SCPC)²³ is a legally established government body focusing specifically on corruption and headed by members of the judiciary and senior civil service. One of its formal roles is to provide awareness raising and training to business, reflected in the breadth of its activity. SCPC anti-corruption awareness raising for business ranges from presentations to universities, to participation in trade association working groups, to protocols on exchange of information.

²¹ http://www.export.gov/salesandmarketing/eg_main_018198.asp

²² http://tcc.export.gov/Report_a_Barrier/index.asp

²³ <http://www.justice.gouv.fr/multilinguisme-12198/english-12200/the-central-service-for-the-prevention-of-corruption-24860.html>

UK Chamber of Shipping²⁴

Comment: The UK Chamber of Shipping is the trade association for UK-based shipowners and ship managers, with a membership of over 170 companies and entered tonnage in excess of 22million gross tonnes.

Question 1

The UK Chamber is aware of the Prosperity Fund but is not well-informed on other types of support for businesses operating in the less trustworthy jurisdictions. Companies are understandably nervous about reporting incidences in which their masters have been left with little choice but to comply with a demand, for fear of self-incrimination. More support is needed if UK outposts

are to acquire a better understanding of the issues faced by ships and then participate in the development of appropriate strategies to tackle them.

A further question is whether the support offered is available to UK nationals serving on ships registered outside the UK, or indeed overseas nationals on ships that may be owned, operated and registered in the UK. The position is not clear.

Question 2

Many UK ships trade to countries where unwarranted demands from public officials in ports and canals for small gifts or payments, in order to secure the proper performance of their existing duties, are endemic. Demands are frequently accompanied by express or implied threats to the safety of the ship, its crew and cargo and might also be viewed as blackmail, duress or extortion.

However, the provision of such gifts or payments - which may be described as facilitation payments - is prohibited under the Bribery Act. Companies feel isolated - often the price of complying with a demand is tiny compared to the costs of delays to cargo deliveries, damage to the structure of the ship and the resulting missed deadlines and contractual breaches.

Question 3

Firstly a better understanding of the issues facing ships and a willingness to differentiate between classic bribery (the aim of which is to gain an illicit advantage in business by inducing improper behaviour) and demands for unwarranted payments and gifts faced by ships. The shipping company - and more particularly the ship's Master - is the victim in such instances but theoretically faces prosecution under UK law. This approach is unhelpful and is

²⁴ <https://www.ukchamberofshipping.com/>

more likely to drive the problem underground than resolve it.

Secondly, more public declarations of the support available to the industry in Embassies and Consulates in corruption hotspots would be reassuring. UK interests should be able to report illicit demands and be provided with assistance, including representations to high levels of Government in the countries concerned.

Question 4

The UK Chamber has produced a publication entitled "The Bribery Act 2010 - Practical Guidance for the UK Shipping Industry", which is the only document that addresses specifically the issues faced in shipping. It provides practical advice on the steps companies and Masters can take to comply with the Bribery Act without interfering with their normal business.

The publication can be purchased from the publishers Witherby:

<http://www.witherbyseamanship.com/bribery-act-guidance.html>

University of York²⁵

Dr Lynne F Baxter

Comment: The following submission identifies three main challenges to address in supporting businesses manage corruption. It also supports one area as promising in designing out opportunities for corruption and provides a caveat for policy makers.

These views are based on my own research, and that of postgraduate researchers, The York Management School. All of us have previous experience, and carried out the research because we have an interest in reducing rates of corruption. We have undertaken 5 qualitative studies of corruption in organizations in Australia, Kosovo, Malaysia and Nigeria.

The Prime Minister is right to highlight complicitness, corruption takes place within relationships, some established for years so that they become normal practices. Many of the practices which attract the label of corruption might equally apply to how UK businesses behave in the UK - one person's development of partnership sourcing is another person's bribe.

Challenges to overcome

Bribery might not be obvious. For example, it could be built in to the fee structure the UK business pays for professional services from lawyers. 'Bribes' are often used to speed services, and professionals see it as part of their competence to offer preferential treatment.

Normal management practices can husband corrupt activities. Training and development opportunities might foster cronyism. Differential costs of living between developing countries and the UK mean that if a trip or training opportunities are offered, it can be used to support cronyism. Individuals can have the opportunity to exchange currency and obtain a per diem rate of expenses in excess of their normal salaries.

Outsourcing creates opportunities for conflicts of interest. Not all purchasing goes through the procurement office and purchase orders and billing can appear quite normal, yet conceal a corrupt conflict of interest between the buyer and supplier. Hidden ownership of companies means it is not readily apparent when a conflict arises. Normal practices of building a good relationship with suppliers can veer into corruption and support cronyism, distorting best value.

On the positive side, one of our studies showed that the increased use of technologies in public administration had the effect of limiting opportunities for bribery, by simplifying

²⁵ <https://www.york.ac.uk/management/>

processes and eliminating scope for discretion.

A caveat we would like to make is that many of the anti-corruption organizations and reports make too generalized statements about countries and organizations being corrupt. By studying people working in organizations, we found that the picture was far more mixed. People were ashamed of incidents of corruption damaging the reputation of their organization and country, and were keen to behave in an ethical way. UK businesses might lose out if they assume a reputation for corruption covers everyone.

Solicitors Regulation Authority²⁶

Comment: The Solicitors Regulation Authority (SRA) is the regulator of solicitors and law firms in England and Wales. We are the largest legal regulator in England and Wales, regulating more than 10,000 law firms - ranging from sole practitioners to large firms with a global presence and thousands of lawyers – and over 167,000 solicitors. Our role as a regulator is to protect the public, and to support the rule of law and the proper administration of justice. Legal services in England and Wales are an export in their own right of around £3.5bn per annum and growing. They also underpin and facilitate the export of financial services, in which the UK is global leader, as well as many other exports.

Background

It is estimated that up to £57 billion is laundered through the UK every year. Law firms are one of the key targets for those wishing to launder the proceeds of crime, a point made by the Financial Action Task Force (FATF) in a 2013 report.

Concerns have been raised by the National Crime Agency (NCA) about the quality of suspicious activity reports (SARs) submitted by the profession and the reduction in numbers submitted over recent years to the central reporting body the UK Financial Investigation Unit (UKFIU).

Money laundering is a huge risk due to the large sums of money handled confidentially by legal services firms, the harm money laundering causes to the public interest, the potential damage to public confidence in legal services and the increasing number of reports we have received.

Our approach to regulation is liberalising so as to improve competition that drives and underpins exports of legal services. Our increasingly proportionate and targeted regulatory regime allows us to remove unnecessary restrictions and better focus our effort on genuine risks such as money laundering and financial crime. We are leading the world in liberalising regulation of legal services and this underpins the success of our legal services both in terms of inward investment (such as attracting US and other law firms to the UK) and exports of UK law around the world.

We do not have any particular comments on support that could be offered by the UK Government to help firms meet their responsibilities, indeed the lack of government support is not an issue that has been raised with us by those we regulate.

As a leading regulator of professional services we have been active in supporting and advising

²⁶ <https://www.sra.org.uk/home/home.page>

firms on how they can meet their obligations to prevent money laundering and manage corruption. The purpose of our submission is to outline examples of the work we are doing in this area.

Supporting law firms

We launched our anti money laundering campaign in September 2014 due to growing concerns about the increasing numbers of reports and evidence that some firms were not managing the risks around money laundering. The aim of this was to ensure solicitors firms do not become embroiled in money laundering activity and are compliant with the various regulations and legislation associated with anti-money laundering compliance.

Since then we have undertaken an extensive thematic review on anti-money laundering in the legal sector. Our review has been about testing the processes that firms have for identifying suspicious activity and making reports to the NCA. The campaign did not set out to identify those firms that could be involved - deliberately or unwittingly - in money laundering activity. Such activity would be picked up by our normal day-to-day business.

During visits to around 250 firms, we tested their anti-money laundering systems to ensure they had effective checks and balances in place. We also tested staff awareness of these systems and their ability to apply them to ensure that they could effectively identify suspicious activity and notify the NCA.

We will be reporting on this work in the near future and will share a copy with the APPG as soon as it is published. The report will share the good and poor practice that we encountered, and will be a useful resource for law firms of all shapes and sizes.

The key recommendation for firms is to make sure that systems, policies and training are regularly refreshed and kept up to date.

We have also undertaken extensive engagement on anti-money laundering. We routinely address local law societies and specialist groups on the issues and provide a range of information and resources through our website. The guidance we have placed on our website (www.sra.org.uk/amf) outlines a number of "red flags" that tell solicitors that the activity is suspicious. These include:

- o secretive clients;
- o unusual instructions;
- o instructions received from suspect jurisdictions; and
- o clients forming new companies.

Our annual Risk Outlook summarises the high priority risks for the year, and sets out how we are seeking to manage them. Money laundering is identified as a key risk and it provides

useful guidance to firms to ensure they have robust anti money laundering policies in place.

We have also posted a reminder to firms reminding them that they must ensure they do not allow their client account to be used as a bank account. There are several reasons why this is not allowed, but preventing the laundering of proceeds of crime is one of the most important.

Maintaining independence and professionalism

Professionalism and independence are two fundamental aspects of what it means to be a solicitor. Concerns had been raised to us about the pressure that clients can put on their law firms, which could potentially compromise this independence and professionalism.

We wanted to better understand these relationships and the impact they can have. We recently commissioned independent research to improve our understanding of how the lawyer-client relationships works in larger corporate firms. This looked at a number of issues, including how these relationships impact on independence and whether clients are influencing law firm's engagement decisions.

Broadly speaking, the research demonstrated that although clients were seeking increasing challenging terms of engagement, firms do routinely push back on terms of engagement proposed by clients that they deem incompatible with professional responsibilities, and continue to get instructions. The full report and can be found at <file:///C:/Users/John/Downloads/independence-report.pdf>.

The Solicitors Regulation Authority would be happy to discuss the challenges facing the legal sector and how we are promoting good anti-money laundering systems and controls in more detail with the APPG.

The Open Contracting Partnership²⁷

Summary

Public procurement is a government's number one corruption risk. In order to deter fraud and corruption, secure better value for money for goods and services, enhance opportunities for small and medium sized enterprises (SMEs) and increase civic participation, the Open Contracting Partnership recommends that:

HMG adopt and fully implements the Open Contracting Principles²⁸ and Open Contracting Data Standard²⁹ so that government deals are open by default and contracts are disclosed.

Adopting open contracting is not only an important measure for UK public integrity but also a powerful signal for UK global anti-corruption leadership; helping to support a global effort to drive reforms focused on promoting transparency and civic participation in public contracting around the world and creating a level playing field of British businesses at home and abroad.

Background

Governments spend vast sums of money - some US\$9.5 trillion, 15% of global GDP³⁰ - every year on deals and contracts with companies to deliver goods and services to their citizens. This procurement is the bricks and mortar of public benefit, where taxpayers' money gets converted into the roads, schools and hospitals that citizens care about.

However, OECD, European Commission, WEF and UNODC all agree that public procurement and contracting is a government's number one vulnerability for corruption and fraud, which is inefficient, increases costs and is a barrier to competition.³¹ Some 57% of foreign bribery cases prosecuted under the OECD Anti-Bribery Convention involved bribes to obtain public contracts,³² yet only 6% of 86 countries surveyed publish open data on government contracts.³³ This is bad for competition, bad for taxpayers, and lethal for public integrity.

²⁷ <http://www.open-contracting.org/>

²⁸ http://www.open-contracting.org/global_principles

²⁹ http://www.open-contracting.org/open_contracting_data_standards

³⁰ Kenny, C. November 2014. Publish Government Contracts. Addressing Concerns and Easing Implementation. Center for Global Development, Washington DC. <http://www.cgdev.org/sites/default/files/publishinggovernment-contracts-report.pdf>. p. ix.

³¹ <http://www.oecd.org/gov/ethics/public-procurement.htm>; http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-humantrafficking/corruption/docs/acr_2014_en.pdf, p.21; OECD. 2012. Progress Made in Implementing the OECD Recommendation on Enhancing Integrity in Public Procurement. <http://www.oecd.org/gov/ethics/combined%20files.pdf>, p 14-15; UN Office of Drugs and Crime. 2013. Guidebook on anti-corruption in public procurement and the management of public finances. p.1.

³² OECD. December 2014. The OECD Foreign Bribery Report. An Analysis of the Crime of Bribery of Foreign Public Officials. <http://www.oecd.org/corruption/oecd-foreign-bribery-report-9789264226616.htm>, p. 8

³³ <http://barometer.opendataresearch.org/report/summary/index.html>

A recent academic paper on the significant corruption risks in UK public procurement can be found here: Corruption Risks in UK Public Procurement and New Corruption Tools.³⁴

Open Contracting

Open contracting offers a series of best practices to increase disclosure and user engagement across public contracting including tendering, performance and completion.

The heart of open contracting is assisting governments with sharing contracting information in a machine-readable, re-useable and digestible way. Our organisation has developed an Open Contracting Data Standard to assist with that.

The Standard is a user-friendly and flexible tool that structures information about the planning, procurement and implementation of government contracts and encourages its publication for reuse and innovation. It describes what, when and how to release data and associated documents at different phases of the contracting process.

It ensures that partners across the world can gain access to joined up data, rather than facing silos of disconnected contracting data. The standard enables developers to build tools that will deliver value added services to the private sector, such as more efficiently matching small business with opportunities, and applications for citizen's groups to monitor service delivery. Open data also makes it easier to spot 'red flags' for the misuse of public funds.

It also provides a benchmark for good practice in disclosure, offering a framework for government to progressively collect and publish their information. It is not a pass or fail standard but encourages progressive publication and sharing of information.

In turn, the adoption of the Open Contracting Principles and Open Contracting Data Disclosure Standard, would be a pillar of best practice for open government and will help secure the UK's position as a world leader in this area.

Open contracting in the UK

The UK government included commitments to Open Contracting in the 2013 Open Government Partnership National Action Plan (OGP NAP), and is considering commitments for the next OGP NAP (2016).

Some good progress has been made, but the UK is currently missing the full potential of open contracting through data quality and completeness gaps, and a lack of focus on use.

The OCP recently conducted a diagnostic assessment for the Cabinet Office, "Towards

³⁴ <http://www.govtransparency.eu/index.php/2015/11/10/corruption-risks-in-uk-publicprocurement-and-new-anti-corruption-tools/>

Comprehensive Open Contracting data in the UK,”³⁵ that provides an assessment of the current situation.

Key opportunities to make progress include:

1) Publishing existing data

The UK already has structured data for many tenders and awards in a central platform. The first stage is to make this data open in a standard form. This should form part of a UK information infrastructure.

2) Improving data quality

There is a legislative framework for the information government and contractors must provide. In implementing this framework, the way information is provided can improve re-usability and enable deeper analysis.

3) Improve completeness

Through model contract terms, government can ask contractors to provide structured information on key issues such as subcontracting, beneficial ownership and contract implementation.

4) Promote engagement

Open contracting is about impact. The test of success is in how usable and well used information is.

The report also includes case studies from the Crossrail infrastructure project in the UK; and international examples such as Mexico City New International Airport development – a \$169 billion development which is applying the open contracting data standard to all its contracts.

Conclusion

Public procurement is a government’s number one corruption risk and open contracting offers a scaleable, strategic way to address that risk whilst also supporting a better business environment and more effective service delivery for government. Wider application and implementation of open contracting HMG can save money and time, prevent corruption and fraud, create a better business environment (in the UK and abroad), and help better goods and services reach citizens.

Please do not hesitate to get in touch if you would like to discuss this further.

Additional resources

Blog posts:

Eight Recommendations for Open Contracting in the UK.³⁶

³⁵ <https://docs.google.com/document/d/1PPdTeHovmVNRWWVIVNROxPcMw2Bcbo8bfJVzkdK3IgM/edit>

³⁶ <http://www.opengovernment.org.uk/2015/12/02/8-recommendations-for-open-contracting-inthe-uk/>

Mexico City, making contracts available to its 14 million citizens.³⁷

The Slovak Republic, where government procurement contracts now have to be published online in order to be legally enforceable: Learning from Slovakia's Experience of Contract Publication.³⁸

³⁷ http://www.open-contracting.org/making_contracts_accessible_to_mexico_city

³⁸ <http://www.cgdev.org/blog/learning-slovakias-experience-contract-publication>

Cifas³⁹

Catherine McKinnell MP
House of Commons
London
SW1A 0AA

17 February 2016

Dear Ms McKinnell MP

RE: APPG Anti-Corruption Inquiry into how can UK businesses be better supported to manage corruption risks in high-growth markets?

Please find below Cifas' response to the All Party Parliamentary Group on Anti-Corruption inquiry.

Key points from this submission

- Corruption is a serious threat to UK Government institutions, businesses and charities.
- Corruption undermines public trust in UK institutions and businesses.
- The UK Government should look to incorporate Cifas' Internal Fraud Database into best practice for Government agencies, businesses and charities who work in high-growth markets.

Context

Cifas is a not-for-profit organisation working in the UK for over 27 years and has more than 350 members. Our mission is to deter, detect and prevent fraud and fraud-related crime in society. We do this by harnessing data and technology and working in partnership with the public, private and third sector.

In responding to this inquiry, Cifas has provided information only on the areas where we have direct experience.

Background

In 2006 Cifas launched the Internal Fraud Database (IFD). This was set up at the request of banking and financial institutions. The Internal Fraud Database enables responsible employers to record proven cases of staff fraud in order to prevent the perpetrator moving unchallenged to a new employer to commit further fraud.

³⁹ <https://www.cifas.org.uk/>

A member of the scheme can use the IFD to check if a job applicant has been filed by other participatory organisations for internal fraud or can check them once in post. They can also use the database to record internal fraud cases identified within their own organisation.

In 2013 three bribery case types were added to the Internal Fraud Database; bribing another person; bring bribed and bribery of foreign public officials. Since the launch of the IFD in 2006 there are now 152 members ranging from the banking, insurance, and construction industries to the public sector.

The Financial Conduct Authority classes the Internal Fraud Database as good practice in its reports on anti-bribery and corruption in the financial services and insurance broking sectors. The Chartered Institute for Personnel and Development has also endorsed the database.

What policy, strategy, and/or programming models could government agencies develop to better support UK businesses to deal with the threat of corruption and bribery?

The Prime Minister, David Cameron, recently said in a speech in Singapore, “Corruption is one of the greatest enemies of progress in our time”.
(<https://www.gov.uk/government/speeches/tackling-corruption-pm-speech-in-singapore>).

We agree that corruption is a significant problem and has huge cost implications for UK Government institutions, businesses and charities, in his speech the Prime Minister said corruption adds 10% to businesses costs globally. As well, a recent Transparency International report called ‘Closing Down the Safe Havens’ estimated that between £23-57 billion is being laundered into the UK every year
(https://www.cooley.com/files/TI_Closing_Down_the_Safe_Havens_Maton.pdf). This figure does not take account the true cost of corruption to the UK, but it is a good indicator.

Yet, corruption does not just harm Government, businesses and charities through money lost purely by the corrupt act. It also costs in terms of regulatory fines, legal costs associated with the corruption and also the unquantifiable costs of loss of staff morale and reputational damage. Cifas has done some research that shows insider fraud can cost companies a substantial amount. We found that a fraud under £25,000 normally costs a company three times the size of the initial fraud (<https://www.cifas.org.uk/thetruecostofinsiderfraud>).

The May 2015 British Aid Attitude Tracker found that 36% of respondents could only tolerate 1% of aid being lost to corruption, while a further 42% said they could tolerate 2-10% being lost through corruption.
(https://www.bond.org.uk/sites/default/files/resource-documents/uk_public_attitudes_towards_development.pdf). The UK public have very low tolerance levels for corruption, and while giving aid and supporting businesses and charities in high growth markets is important; so too is tackling corruption if the British public is to be brought on board.

In the Government's 2014 UK Anti-Corruption Plan it states that one of its strategic aims is to "Deter professionals from engaging in corrupt practices through raising awareness of the consequences and reality" and action point 18 for the Home Office is "to promote guidance on managing the threat from corrupt 'insiders' to organisations vulnerable to being targeted by organised crime".

(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/388894/UKAntiCorruptionPlan.pdf).

We believe that the Government could meet its aims and help prevent corrupt insiders moving between different UK businesses by putting in place a data sharing system where Government agencies, businesses and charities share data on employees who have been found to have committed corrupt practices. This would mean that businesses and other organisations could, as part of their pre-employment checks identify whether the potential employee has committed corruption previously and if so decide whether they are willing to accept the risk of employing them.

If the Government set up such a scheme or supported a similar database already set up, we believe that corrupt individuals would find it increasingly difficult to move from organisation to organisation and that in turn would mean corruption with UK businesses and charities would start to reduce.

What good practice examples of activity or approaches in other sectors or jurisdictions could be replicated by UK government agencies?

We would like the UK Government to examine the use of the Cifas Internal Fraud Database. Our database can be used by both the public, private and third sector to record internal fraudsters and corrupt officials.

Moreover we believe that if the Government, before giving financial support to charities, businesses and other agencies operating in the developing world required them to report corrupt employees and check potential new employees on a database like the IFD then corruption would start to reduce.

A freedom of information request in 2010 found that the Department for International Development had lost nearly £720,000 as a result of fraud, corruption and abuse in the five previous years. (<http://www.independent.co.uk/news/uk/politics/taxpayers-money-given-to-corrupt-charities-1938691.html>). The UK Government has committed to spending 0.7% of UK GDP on International Development and Aid. We believe that the Government should use the Cifas IFD to check officials who work in international development agencies, charities and businesses before giving money to those organisations. This would help to ensure the public have trust that UK aid is not being spent and laundered by corrupt officials.

Conclusion:

We believe that corruption is a growing threat to the UK and it affects Government departments and agencies, businesses, charities and citizens alike.

Cifas would like to see:

- UK Government using Cifas' Internal Fraud Database to record corrupt public officials and check new employees against it, particularly those who work in high-growth markets.
- The Government encourage businesses and charities, who operate in developing countries, to use the IFD as best practice when recruiting, checking and reporting employees for corruption.

Thank you for the opportunity to respond to this inquiry. If you have any further questions regarding financial crime or corruption, please do not hesitate to get in touch.

Yours faithfully,
Chief Executive
Cifas